



NAVAJO NATION ENVIRONMENTAL PROTECTION AGENCY
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Dr. Joe Shirley, Jr.
PRESIDENT

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TITLE V PERMIT TO OPERATE

<u>PERMIT #:</u>	<u>FACILITY NAME:</u>	<u>LOCATION:</u>	<u>COUNTY:</u>	<u>STATE:</u>
NN-OP 08-010	PEABODY WESTERN COAL COMPANY - BLACK MESA COMPLEX	KAYENTA	NAVAJO	AZ
<u>ISSUE DATE:</u>	<u>EXPIRATION DATE:</u>	<u>AFS PLANT ID:</u>	<u>PERMITTING AUTHORITY:</u>	
xx/xx/2009	xx/xx/2014	04-017-NAV01	NNEPA	

ACTION/STATUS: DRAFT PART 71 OPERATING PERMIT

Kemal Williamson, President
Peabody Western Coal Company - Black Mesa Complex
701 Market Street
St. Louis, Missouri 63101-1826

Re: Issuance of Title V Operating Permit to Peabody Western Coal
Company - Black Mesa Complex

Dear Mr. Williamson:

This permit is being issued and administered by the Navajo Nation EPA ("NNEPA") pursuant to the Delegation Agreement between EPA Region IX and NNEPA, dated October 15, 2004. In accordance with the provisions of Title V of the Clean Air Act, 40 CFR Part 71, Navajo Nation Operating Permit Regulations, and all other applicable rules and regulations, the permittee, Peabody Western Coal Company - Black Mesa Complex, is authorized to operate air emission units and to conduct other air pollutant-emitting activities in accordance with the permit conditions listed in this permit.

Terms and conditions not otherwise defined in this permit have the same meaning as assigned to them in the referenced regulations. All terms and conditions of the permit are enforceable by NNEPA and by EPA, as well as by citizens, under either or both the Navajo Nation Clean Air Act and the Clean Air Act, as applicable. If all proposed control measures and/or equipment are not installed and/or properly operated and maintained, this will be considered a violation of the permit.

This permit is valid for a period of five (5) years and shall expire at midnight on the date five (5) years after the date of issuance unless a timely and complete renewal application has been submitted at least 6 months but not more than 18 months prior to the date of expiration. The permit number cited above should be referenced in future correspondence regarding this facility.

Date

Stephen B. Etsitty
Executive Director
Navajo Nation Environmental Protection Agency

Abbreviations and Acronyms

Administrator	Administrator of the U.S. EPA
AR	Acid Rain
ARP	Acid Rain Program
CAA	Clean Air Act [42 U.S.C. Section 7401 et seq.]
CAM	Compliance Assurance Monitoring
CFR	Code of Federal Regulations
EIP	Economic Incentives Program
gal	gallon
HAP	Hazardous Air Pollutant
hp	horse power
hr	hour
Id. No.	Identification Number
ISO	International Standards Organization
kg	kilogram
lb	pound
MMBtu	million British Thermal Units
mo	month
NESHAP	National Emission Standards for Hazardous Air Pollutants
NNEPA	Navajo Nation Environmental Protection Agency
NNOPR	Navajo Nation Operating Permit Regulations
NNADCR	Navajo Nation Acid Deposition Control Regulations
NO _x	Nitrogen Oxides
NSPS	New Source Performance Standards
NSR	New Source Review
PM	Particulate Matter
PM-10	Particulate matter less than 10 microns in diameter
ppm	parts per million
PSD	Prevention of Significant Deterioration
PTE	Potential to Emit
psia	pounds per square inch absolute
RMP	Risk Management Plan
SNAP	Significant New Alternatives Program
SO ₂	Sulfur Dioxide
TSP	Total Suspended Particulate
U.S. EPA	United States Environmental Protection Agency
VOC	Volatile Organic Compounds

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I. Source Identification

- Parent Company Name: Peabody Holding Company, LLC
- Parent Company Mailing Address: 701 Market Street
St. Louis, Missouri 63101-1826
- Plant Name: Peabody Western Coal Company - Black Mesa Complex
- Plant Location: 20 miles SSW of Kayenta, Arizona
- County: Navajo, Arizona
- EPA Region: 9
- Reservation: Navajo Nation
- Tribe: Hopi Tribe
- Company Contact: Gary Wendt Phone: (928) 677-5130
- Responsible Official: Kemal Williamson Phone: (314) 342-7586
- EPA Contact: Roger Kohn Phone: (415) 972-3973
- Tribal Contacts: Charlene Nelson Phone: (928) 729-4247
- SIC Code: 1221
- AFS Plant Identification Number: 04-017-NAV01
- Description of Process: The facility is a surface coal mining operation.
- Significant Emission Units:

Unit ID	Unit Description	Maximum Capacity	Construction Date	Control Method
J-28 Coal Processing Area at Kayenta Mine				
J28D	Two (2) bulldozing operations	4,500 hrs/yr	1984-1986	N/A
J28	One (1) truck hopper	2,600 tons/hr*	1984-1986	Sprays and rain birds.
Belt #1-N Belt #1-S	Two (2) conveyors, from the stockpile K-5 truck hopper to the primary crusher.	2,600 tons/hr each	1984-1986	Enclosure and sprays.
J28	One (1) high sulfur reclaim hopper	2,600 tons/hr*	1984-1986	Sprays and rain birds.
Belt #8	One (1) conveyor, from the stockpiles K-6 and K-6A truck hopper to the crusher	2,600 tons/hr	1984-1986	Enclosure and sprays.
J28PC	Two (2) primary crushers	2,600 tons/hr (each)*	1984-1986	Enclosure and sprays.
Belt #2	One (1) conveyor, from the primary crusher to the screen	2,600 tons/hr	1984-1986	Enclosure and sprays.
J28S	One (1) double deck screen	2,600 tons/hr*	1984-1986	Enclosure and sprays.
J28SC	One (1) secondary crusher	500 tons/hr	1984-1986	Enclosure.
Belt #3 Belt #4	Two (2) conveyors associated with the sample system crusher.	1.9 tons/hr* (each)	1984-1986	Enclosure and sprays.
J28SSC	One (1) sample system crusher	1.9 tons/hr	1984-1986	Enclosure.
Belt #5 Belt #6	Two (2) conveyors, from the secondary crusher to the dome stockpile	2,600 tons/hr each*	1984-1986	Enclosure and sprays.
K-5, K-6, and K-6A	Three (3) stockpiles	8,900,000 tons/yr (combined)	1984-1986	N/A
	One (1) dome stockpile	8,900,000 tons/yr	1984-1986	Enclosure and sprays.
N-11 Coal Processing Area at Kayenta Mine				
N11D	One (1) bulldozing operation	1,500 hrs/yr	1991-1992	N/A
N11	One (1) truck hopper	1,800 tons/hr*	1991-1992	Sprays and rain birds.

Unit ID	Unit Description	Maximum Capacity	Construction Date	Control Method
Belt #34	One (1) conveyor, from the stockpile N-11 truck hopper to the primary crusher.	1,800 tons/hr	1991-1992	Enclosure and sprays.
N11PC	One (1) primary crusher	1,800 tons/hr*	1991-1992	Enclosure and sprays.
Belt #35	One (1) conveyor, from the primary crusher to the screen.	1,800 tons/hr	1991-1992	Enclosure and sprays.
N11S	One (1) single deck screen	1,800 tons/hr*	1991-1992	Enclosure and sprays.
Sample Belt	One (1) conveyor, from the screen to the sample system crusher	1,800 tons/hr	1991-1992	Enclosure and sprays.
N11SSC	One (1) sample system crusher	1.1 tons/hr	1991-1992	Enclosure.
Belt #36	One (1) conveyor from the sample system to transfer point	1,800 tons/hr	1991-1992	Enclosure and sprays.
N-11	Stockpile	4,000,000 tons/yr	1991-1992	N/A
N-8 Coal Processing Area at Kayenta Mine				
N8D	Three (3) bulldozing operations	22,285 hrs/yr (combined)	K-1 – 1970-1973 K-2 – 1983-1984 K-3 – 1991-1992	N/A
N8	One (1) truck hopper at stockpile K-2 (low sulfur)	2,600 tons/hr*	1970-1973	Sprays, rain birds, and chemical application.
Belt #3A	One (1) conveyor associated with the K-2 low sulfur truck hopper.	2,600 tons/hr	1983-1984	Enclosure.
Belt #11 Belt #12	Two (2) conveyors to stockpile K-2	1,800 tons/hr (each)	1983-1984	Enclosure and sprays.
N8	One (1) truck hopper at stockpile K-3 (high sulfur)	2,600 tons/hr*	1991-1992	Sprays.
Belt #18	One (1) conveyor associated with the K-3 high sulfur truck hopper.	2,600 tons/hr	1991-1992	Enclosure.
Belt #15 Belt #16	Two (2) conveyors to stockpile K-3	2,600 tons/hr (each)	1991-1992	Enclosure.
Belt #4	One (1) conveyor, to stockpile K-1 to Belts #3 and 14	2,600 tons/hr	1970-1973	Enclosure.
Belt #3 Belt #14	Two (2) conveyors to the transfer tower	2,600 tons/hr (each)	1970-1973	Enclosure.
Belt #27	One (1) conveyor, from stockpile K-1 to Belt #30	1,800 tons/hr	1970-1973	Enclosure.
Belt #28	One (1) conveyor from Belts #3 and #14 to Belt #30 transfer point	1,800 tons/hr	1970-1973	Enclosure.
N8SSC	Sample system crusher	1.1 tons/hr	1978-1979	Enclosure, sprays, and chemical application.
Belt #31 Belt #33	Two (2) conveyors associated with the screens	1,800 tons/hr (each)	1978-1979	Enclosure.
N8S	Two (2) single deck screens	1,800 tons/hr* (combined)	1978-1979	Enclosure and chemical application.
N8SC	Two (2) secondary crushers	600 tons/hr (each)	1978-1979	Enclosure and chemical application.
Belt #30 Belt #32	Two (2) conveyors from belts #27 and #28 to the weigh bin	1,800 tons/hr each	Belt #30 – 1970-73 Belt #32 – 1991-92	Enclosure.
K-1, K2, and K-3	Stockpiles	8,900,000 tons/yr (combined)	K-1 – 1970-73 K-2 – 1983-84 K-3 – 1991-92	N/A
Overland Conveyor System at Kayenta Mine				

Unit ID	Unit Description	Maximum Capacity	Construction Date	Control Method
OCTP20 (Belts #20, through #25)	Five (5) conveyors, from process area J-28 to N-8	1,800 tons/hr (each)	1983-1984	Enclosure and sprays.
OCTP21 (Belts #21, 21-A, #22, and #23)	Four (4) conveyors, from process area N-8 to coal storage silos	1,800 tons/hr (each)	1970-1973	Enclosure and sprays.
SILO	Four (4) coal storage silos	1,800 tons/hr (each)*	1970-1973	Baghouse
Preparation Plant at Black Mesa Mine				
BMD	Two (2) bulldozing operations	4,000 hrs/yr (combined)	1968-1970	N/A
BM	One (1) truck hopper	2,000 tons/hr*	1968-1970	Sprays.
CONV #2	One (1) conveyor, from the truck hopper to the primary crusher	2,000 tons/hr	1968-1970	Enclosure.
BMPC	One (1) primary crusher	2,000 tons/hr*	1968-1970	Enclosure and sprays.
BMS	One (1) screen	2,000 tons/hr	1986	Enclosure and sprays.
BMSC	One (1) secondary crusher	500 tons/hr	1986	Enclosure and sprays.
CONV #4 CONV #5	Two (2) conveyors, from the primary crusher to live storage	2,000 tons/hr (each)	1968-1970	Enclosure.
CONV #3A CONV #3B	Two (2) conveyors associated with the screen	2,000 tons/hr (each)	1986	Enclosure and sprays.
BMSSC	One (1) sample system crusher	1.1 tons/hr	1986	Enclosure.
BMPSSC	Two (2) conveyors associated with the sample system crusher	25 tons/hr (each)	1986	Enclosure.
Dead storage	One (1) reclaim hopper	2,000 tons/hr	1968-1970	Sprays.
CONV #11	One (1) conveyor from the reclaim hopper	2,000 tons/hr	1968-1970	Enclosure.
CONV #7	One (1) conveyor from the live storage to the transfer tower	2,000 tons/hr	1968-1970	Enclosure.
CONV #8	One (1) conveyor between the transfer towers	2,000 tons/hr	1968-1970	Enclosure.
BMCTEC	One (1) CT&E sample system crusher	1.1 tons/hr	1968-1970	Enclosure.
CONV #9 CONV #9A CONV #10	Three (3) conveyors from the main transfer tower to the pipeline	2,000 tons/hr	1968-1970	Enclosure.
B-1, B-2, B-2A, and B-3	Four (4) stockpiles	6,000,000 tons/yr (Combined)	1968-1970	N/A
Storage Tanks				
K01ST	Gasoline storage tank	12,000 gal	1991	N/A
K08ST	Gasoline storage tank	12,000 gal	Approx 1986	N/A

II. Requirements for Specific Units

II.A. NSPS General Provisions

The following requirements apply to the operation, maintenance, and testing the affected facilities in the coal preparation plants in accordance with 40 CFR Part 60, Subparts A and Y (“Standards of Performance for Coal Preparation Plants”):

1. All requests, reports, applications, submittals, and other communications to the Administrator (NNEPA) pursuant to 40 CFR Part 60 shall be submitted in duplicate to the EPA Region 9 office at the following address [40 CFR § 60.4(a)]:

EPA Region 9
Director, Air Division (Attn: AIR-1)
EPA Region IX
75 Hawthorne Street
San Francisco, CA 94105
2. Any owner or operator subject to the provisions of this part shall maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility; any malfunction of the air pollution control equipment; or any periods during which a continuous monitoring system or monitoring device is inoperative [40 CFR § 60.7(b)].
3. The availability to the public of information provided to, or otherwise obtained by, the EPA Administrator under this permit shall be governed by 40 CFR § 2 (Information submitted voluntarily to the Administrator for the purposes of compliance with 40 CFR §§ 60.5 and 60.6 is governed by 40 CFR §§ 2.201 through § 2.213 and not by 40 CFR § 2.301.) [40 CFR § 60.9].
4. At all times, including periods of startup, shutdown, and malfunction, the permittee shall, to the extent practicable, maintain and operate the affected facilities including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Administrator which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source [40 CFR § 60.11(d)].
5. For the purpose of submitting compliance certifications or establishing whether or not a person has violated or is in violation of any standard in 40 CFR § 60, nothing in 40 CFR § 60 shall preclude the use, including the exclusive use, of any credible evidence or information, relevant to whether a source would have been in compliance with applicable requirements if the appropriate performance or compliance test or procedure had been performed [40 CFR § 60.11(g)].
6. No owner or operator subject to the provisions of 40 CFR § 60 shall build, erect, install, or use any article, machine, equipment or process, the use of which

conceals an emission which would otherwise constitute a violation of an applicable standard. Such concealment includes, but is not limited to, the use of gaseous diluents to achieve compliance with an opacity standard or with a standard which is based on the concentration of a pollutant in the gases discharged to the atmosphere [40 CFR § 60.12].

7. With respect to compliance with all New Source Performance Standards (NSPS) of 40 CFR § 60, the permittee shall comply with the “General notification and reporting requirements” found in 40 CFR § 60.19 [40 CFR § 60.19].
8. The permittee shall provide written notification to NNEPA and U.S. EPA or, if acceptable to NNEPA, U.S. EPA and the permittee, electronic notification of any reconstruction of an affected facility, or any physical or operational change to an affected facility which may increase the emission rate of any air pollutant to which a standard applies, unless that change is specifically exempted under this permit or in 40 CFR § 60.14(e), in accordance with 40 CFR § 60.7 [40 CFR § 60.7(a)].

II.B. NSPS, Subpart Y Requirements

Table 1-Emission Points/Units subject to New Source Performance Standards Subpart Y.

Emission Points/Units	Description
J-28 Coal Processing Area at Kayenta Mine	
J28PC	Two (2) Primary Crushers
J28S	One (1) Screen (Double Deck)
J28SC	One (1) Secondary Crusher
J28SSC	One (1) Sample System Crusher
Belt #1-N Belt #1-8 Belt #8 Belts #2-6	Eight (8) Conveyors
J28TP	Transfer Points (all transfers)
N-11 Coal Processing Area at Kayenta Mine	
N11PC	One (1) Primary Crusher
N11S	One (1) Screen (Single Deck)
N11SSC	One (1) Sample System Crusher
Belts #34-26	Three (3) Conveyors
N11TP	Transfer Points (all transfers)
N-8 Coal Processing Area at Kayenta Mine	
N8S	Two (2) Single Deck Screens

N8SC	Two (2) Secondary Crushers
N8SSC	One (1) Sample System Crusher
Belt#3A Belt #11 Belt #12 Belts #14-16 Belt #18 Belt #27 Belt #28 Belt #30-33	Thirteen (13) Conveyors
N8TP	Transfer Points (K-2 and K-3 stockpile and screen/sample systems)
Overland Conveyor System	
OCTP20 and OCTP21	Transfer Points
Preparation Plant at Black Mesa Mine	
BMS	One (1) Screen
BMPC	One (1) Primary Crusher
BMSC	One (1) Secondary Crusher
CONV#2	One (1) Conveyor
BMTPS	Transfer Points (at screen and secondary crusher)
BMSSC	One (1) Sample System Crusher
CONV#4 CONV#5 CONV #3A CONV#3B	Four (4) Conveyors
BMT PSSC	Two (2) Conveyors for the Sample System Crusher
CONV#11 CONV#7 CONV#8	Three (3) Conveyors for Reclaim and Transfer
BMCTEC	One (1) CT&E Sample System Crusher
CONV#9 CONV#9A CONV#10	Three (3) Conveyors

The following requirements apply to the emission units listed in Table 1 above accordance with 40 CFR Part 60, Subpart Y (“Standards of Performance for Coal Preparation Plants”):

1. The Permittee shall not cause to be discharged into the atmosphere from any coal processing and conveying equipment, coal storage system, or coal transfer and

loading system processing coal listed in Table 1 above, gases which exhibit 20 percent opacity or greater [40 CFR § 60.252(c)].

2. The opacity standard in Condition II.B.1 shall apply at all times except during periods of startup, shutdown, or malfunction [40 CFR § 60.11(c)].

II.C. Monitoring and Testing Requirements [40 CFR § 71.6(a)(3)(i) and 40 CFR § 71.6(a)(3)(i)(A)]

1. The permittee shall conduct a weekly visible emission survey of each NSPS Subpart Y affected unit listed in Table 1, with the exceptions of the sample system crushers and their associated transfer points, and other underground transfer points including the following: at J-28, the tail end of Belt 8 from the high sulfur reclaim hopper and the tail ends of Belts 1-N and 1-S from the truck hopper, at N-11, the tail end of Belt 34 from the truck hopper, at N-8, the tail end of Belt 18 from high sulfur stockpile K-3. The visible emission survey shall be conducted while the equipment is operating and during daylight hours using EPA Method 22 (Visual Determination of Fugitive Emissions from Material Sources and Smoke Emissions from Flares). If one or more NSPS affected facilities are housed within a single structure, the permittee shall conduct visible emission survey at each opening where particulates vent to the atmosphere.
2. The permittee shall conduct a six (6)-minute EPA Method 9 opacity observation quarterly on each NSPS Subpart Y affected unit listed in Table 1 while the equipment is operating, with the exceptions of the sample system crushers and their associated transfer points, and other underground transfer points including: at J-28, the tail end of Belt 8 from the high sulfur reclaim hopper and the tail ends of Belts 1-N and 1-S from the truck hopper, at N-11, the tail end of Belt 34 from the truck hopper, at N-8, the tail end of Belt 18 from high sulfur stockpile K-3.. If one or more NSPS affected facilities are housed within a single structure, the permittee shall conduct the Method 9 observation at each opening where gases vent to the atmosphere.
3. The permittee shall conduct a monthly inspection of all water sprays associated with emission points listed in Table 1, with the exceptions of those listed in condition II.C.4, to verify that the spray heads are not clogged and that they are otherwise operating as designed.
4. The permittee shall conduct a monthly inspection of the water meters at the following locations to determine whether any water meter shows a significant change in water pressure or drop in water flow rate: inlet and outlet of emission point N11PC, the truck hopper portion of emission point N11TP, the north and south outlets of emission point J28PC, the truck hopper and high sulfur reclaim hopper portions of emission point J28TP, and emission point J28S.
5. If any water spray is not operating as designed, the permittee shall take corrective action within 24 hours (or on the next weekday, if a problem is observed during a weekend or holiday) to repair, replace, or modify the spray.

II.D. Recordkeeping Requirements [40 CFR § 71.6(a)(3)(ii)]

1. The permittee shall record and maintain the following records for each visible emission survey (Method 22) and opacity observation (Method 9):
 - a. the date and time of the observation and the name of the observer;
 - b. the unit ID number;
 - c. whether or not the emission unit was operating;
 - d. statement of whether visible emissions were detected or result of Method 9 observations.
2. The permittee shall record and maintain the following record for each water spray and water meter inspection:
 - a. the date and time of the observation and the name of the inspector;
 - b. the control device ID number;
 - c. whether the sprays (if inspected) were operating as designed;
 - d. whether the water meters (if inspected) showed a significant change in water pressure or drop in water flow rate; and
 - e. a description of any corrective actions taken.

II.E. Operational Flexibility

1. **Clean Air Act Section 502(b)(10) Changes [40 CFR § 71.6(a)(13)(i)]**
 - a. The permittee is allowed to make a limited class of changes under Section 502(b)(10) of the Clean Air Act within this permitted facility that contravene the specific terms of this permit without applying for a permit revision, provided the changes do not exceed the emissions allowable under this permit (whether expressed therein as a rate of emissions or in terms of total emissions) and are not Title I modifications. This class of changes does not include:
 - i. Changes that would violate applicable requirements; or
 - ii. Changes that would contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements.
 - b. The permittee is required to send a notice to EPA at least 7 days in advance of any change made under this provision. The notice must describe the change, when it will occur and any change in emissions, and

identify any permit terms or conditions made inapplicable as a result of the change. The permittee shall attach each notice to its copy of this permit.
permittee

- c. Any permit shield provided in this permit does not apply to changes made under this provision.

III. Facility-Wide or Generic Permit Requirements

Conditions in this section of the permit (Section III) apply to all emissions units located at the facility [See 40 CFR § 71.6(a)(1)].

III.A. Testing Requirements [40 CFR § 71.6(a)(3)]

In addition to the unit specific testing requirements derived from the applicable requirements for each individual unit contained in Section II of this permit, the permittee shall comply with the following generally applicable testing requirements as necessary to ensure that the required tests are sufficient for compliance purposes:

1. Submit to U.S. EPA Region 9 a source test plan 30 days prior to any required testing. The source test plan shall include and address the following elements:
 - 1.0 Purpose of the test
 - 2.0 Source Description and Mode of Operation During Test
 - 3.0 Scope of Work Planned for Test
 - 4.0 Schedule/Dates
 - 5.0 Process Data to be Collected During Test
 - 6.0 Sampling and Analysis Procedures
 - 6.1 Sampling Locations
 - 6.2 Test Methods
 - 6.3 Analysis Procedures and Laboratory Identification
 - 7.0 Quality Assurance Plan
 - 7.1 Calibration Procedures and Frequency
 - 7.2 Sample Recovery and Field Documentation
 - 7.3 Chain of Custody Procedures
 - 7.4 QA/QC Project Flow Chart
 - 8.0 Data Processing and Reporting
 - 8.1 Description of Data Handling and QC Procedures
 - 8.2 Report Content
2. Unless otherwise specified by an applicable requirement or permit condition in Section II, all source tests shall be performed at maximum operating rates (90% to 110%) of device design capacity.
3. Only regular operating staff may adjust the processes or emission control device parameters during a compliance source test. No adjustments are to be made within two (2) hours of the start of the tests. Any operating adjustments made during a source test, that are a result of consultation during the tests with source testing personnel, equipment vendors, or consultants, may render the source test invalid.
4. During each test run and for two (2) hours prior to the test and two (2) hours after the completion of the test, the permittee shall record the following information:
 - a. Fuel characteristics and/or amount of product processed (if applicable).
 - b. Visible emissions.

- c. All parametric data which is required to be monitored in Section II for the emission unit being tested.
 - d. Other source specific data identified in Section II such as minimum test length (e.g., one hour, 8 hours, 24 hours, etc.), minimum sample volume, other operating conditions to be monitored, correction of O₂, etc.
5. Each source test shall consist of at least three (3) valid test runs and the emission results shall be reported as the arithmetic average of all valid test runs and in the terms of the emission limit. There must be at least 3 valid test runs, unless otherwise specified.
 6. Source test reports shall be submitted to U.S. EPA Region 9 and NNEPA within 60 days of completing any required source test.

III.B. Recordkeeping Requirements [40 CFR § 71.6 (a)(3)(ii)]

In addition to the unit specific recordkeeping requirements derived from the applicable requirements for each individual unit and contained in Section II, the permittee shall comply with the following generally applicable recordkeeping requirements:

1. The permittee shall keep records of required monitoring information that include the following:
 - a. The date, place, and time of sampling or measurements;
 - b. The date(s) analyses were performed;
 - c. The company or entity that performed the analyses;
 - d. The analytical techniques or methods used;
 - e. The results of such analyses; and
 - f. The operating conditions as existing at the time of sampling or measurement.
2. The permittee shall retain records of all required monitoring data and support information for a period of at least 5 years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records, all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by this permit.
3. The permittee shall maintain a file of all measurements, including continuous monitoring system, monitoring device, and performance testing measurements; all continuous monitoring system performance evaluations; all continuous monitoring system or monitoring device calibration checks; adjustments and maintenance performed on these systems or devices; and all other information required by 40 CFR § 60 recorded in a permanent form suitable for inspection.

The file shall be retained for at least five years following the date of such measurements, maintenance, reports and records [40 CFR § 71.6(a)(3)(ii), 40 CFR § 60.7(f)].

III.C. Reporting Requirements [40 CFR § 71.6 (a)(3)(iii)] [NNOPR § 302 (G)]

1. The permittee shall submit to NNEPA and U.S. EPA Region 9 reports of any monitoring required under 40 CFR § 71.6(a)(3)(i)(A), (B), or (C) each six month reporting period from January 1 to June 30 and from July 1 to December 31, except that the first reporting period shall cover the period from the effective date of this Part 71 permit through December 31, 2008. All reports shall be submitted to NNEPA and U.S. EPA Region 9 and shall be postmarked by the 30th day following the end of the reporting period. All instances of deviations from permit requirements must be clearly identified in such reports. All required reports must be certified by a responsible official consistent with Condition IV.E of this permit.
 - a. A monitoring report under this section must include the following:
 - i. The company name and address.
 - ii. The beginning and ending dates of the reporting period.
 - iii. The emissions unit or activity being monitored.
 - iv. The emissions limitation or standard, including operational requirements and limitations (such as parameter ranges), specified in the permit for which compliance is being monitored.
 - v. All instances of deviations from permit requirements, including those attributable to upset conditions as defined in the permit and including exceedances as defined under 40 CFR § 64, and the date on which each deviation occurred.
 - vi. If the permit requires continuous monitoring of an emissions limit or parameter range, the report must include the total operating time of the emissions unit during the reporting period, the total duration of excess emissions or parameter exceedances during the reporting period, and the total downtime of the continuous monitoring system during the reporting period.
 - vii. If the permit requires periodic monitoring, visual observations, work practice checks, or similar monitoring, the report shall include the total time when such monitoring was not performed during the reporting period and at the source's discretion either the total duration of deviations indicated by such monitoring or the actual records of deviations.
 - viii. All other monitoring results, data, or analyses required to be reported by the applicable requirement.

- ix. The name, title, and signature of the responsible official who is certifying to the truth, accuracy, and completeness of the report.
 - b. Any report required by an applicable requirement that provides the same information described in paragraph III.C(1)(a)(i) through (ix) above shall satisfy the requirement under III.C(1)(a).
 - c. "Deviation," means any situation in which an emissions unit fails to meet a permit term or condition. A deviation is not always a violation. A deviation can be determined by observation or through review of data obtained from any testing, monitoring, or record keeping established in accordance with 40 CFR §§ 71.6(a)(3)(i) and (a)(3)(ii). For a situation lasting more than 24 hours, each 24-hour period is considered a separate deviation. Included in the meaning of deviation are any of the following:
 - (i) A situation when emissions exceed an emission limitation or standard;
 - (ii) A situation where process or emissions control device parameter values indicate that an emission limitation or standard has not been met;
 - (iii) A situation in which observations or data collected demonstrate noncompliance with an emission limitation or standard or any work practice or operating condition required by the permit.
 - (iv) A situation in which an exceedance, as defined in the compliance assurance plan (40 CFR § 64), occurs.
2. The permittee shall promptly report to U.S. EPA Region 9 and NNEPA deviations from permit requirements, including those attributable to upset conditions as defined in this permit, the probable cause of such deviations, and any corrective actions or preventive measures taken. "Prompt" is defined as follows:
- a. Any definition of "Prompt" or a specific timeframe for reporting deviations provided in an underlying applicable requirement as identified in this permit;
 - b. Where the underlying applicable requirement does not define prompt or provide a timeframe for reporting deviations, reports of deviations will be submitted based on the following schedule:
 - i. For emissions of a hazardous air pollutant or a toxic air pollutant(as identified in the applicable regulation) that continue for more than an hour in excess of permit requirements, the report must be made within 24 hours of the occurrence.

- ii. For emissions of any regulated pollutant excluding a hazardous air pollutant or a toxic air pollutant that continue for more than two hours in excess of permit requirements, the report must be made within 48 hours.
 - iii. For all other deviations from permit requirements, the report shall be submitted with the semi-annual monitoring report required in paragraph III.C(1) of this permit.
- 3. If any of the Conditions in III.C(2)(b)(i) or (ii) of this permit are met, the source must notify the permitting authority by telephone, facsimile, or electronic mail sent to U.S. EPA Region 9 and NNEPA, based on the timetable listed. A written notice, certified consistent with paragraph III.C(4) of this permit section must be submitted within 10 working days of the occurrence. All deviations reported under this section must also be identified in the 6-month report required under paragraph III.C(1) of this section.
- 4. Any application form, report, or compliance certification required to be submitted by this permit shall contain certification by a responsible official of truth, accuracy, and completeness. All certifications shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

III.D. Stratospheric Ozone and Climate Protection [40 CFR § 82]

- 1. The permittee shall comply with the standards for labeling of products using ozone-depleting substances pursuant to 40 CFR § 82, Subpart E:
 - a. All containers in which a class I or class II substance is stored or transported, all products containing a class I substance, and all products directly manufactured with a Class I substance must bear the required warning statement if it is being introduced into interstate commerce pursuant to 40 CFR § 82.106.
 - b. The placement of the required warning statement must comply with the requirements pursuant to 40 CFR § 82.108.
 - c. The form of the label bearing the required warning statement must comply with the requirements pursuant to 40 CFR § 82.110.
 - e. No person may modify, remove, or interfere with the required warning statement except as described in 40 CFR § 82.112.
- 2. The permittee shall comply with the standards for recycling and emissions reduction pursuant to 40 CFR § 82, Subpart F, except as provided for motor vehicle air conditioners (MVACs) in Subpart B:
 - a. Persons opening appliances for maintenance, service, repair, or disposal must comply with the required practices pursuant to 40 CFR § 82.156.

- b. Equipment used during maintenance, service, repair, or disposal of appliances must comply with the standards for recycling and recovery equipment pursuant to 40 CFR § 82.158.
 - c. Persons performing maintenance, service, repair, or disposal of appliances must be certified by an approved technician certification program pursuant to 40 CFR § 82.161.
 - d. Persons disposing of small appliances, MVACs, and MVAC-like appliances must comply with recordkeeping requirements pursuant to 40 CFR § 82.166. ("MVAC-like appliance" as defined at 40 CFR § 82.152)
 - e. Persons owning commercial or industrial process refrigeration equipment must comply with the leak repair requirements pursuant to 40 CFR § 82.156.
 - f. Owners/operators of appliances normally containing 50 or more pounds of refrigerant must keep records of when the refrigerant was purchased and added to such appliances pursuant to 40 CFR § 82.166.
- 3. If the permittee manufactures, transforms, destroys, imports, or exports a Class I or Class II substance, the permittee is subject to all the requirements as specified in 40 CFR § 82, Subpart A, Production and Consumption Controls.
 - 4. If the permittee performs a service on motor (fleet) vehicles when this service involves ozone-depleting substance refrigerant (or regulated substitute substance) in the MVAC, the permittee is subject to all the applicable requirements as specified in 40 CFR § 82, Subpart B, Servicing of Motor Vehicle Air Conditioners.

The term "motor vehicle" as used in Subpart B does not include a vehicle in which final assembly of the vehicle has not been completed. The term "MVAC" as used in Subpart B does not include the air-tight sealed refrigeration system used as refrigerated cargo, or system used on passenger buses using HCFC-22 refrigerant.

- 5. The permittee shall be allowed to switch from any ozone-depleting substance to any alternative that is listed in the Significant New Alternatives Program (SNAP) promulgated pursuant to 40 CFR § 82, Subpart G.

III.E. Asbestos from Demolition and Renovation [40 CFR § 61, Subpart M]

The permittee shall comply with the requirements of Sections 61.140 through 61.157 of the National Emission Standard for Asbestos for all demolition and renovation projects [40 CFR § 61, Subpart M].

III.F. Compliance Schedule [40 CFR §§ 71.5(c)(8)(iii) and 71.6(c)(3)]

1. For applicable requirements with which the source is in compliance, the source will continue to comply with such requirements.
2. For applicable requirements that will become effective during the permit term, the source shall meet such requirements on a timely basis.

III.G. Chemical Accident Prevention [CAA §112(r)(1), 112(r)(3), 112(r)(7) and 40 CFR § 68]

1. The following activities are considered essential and necessary to satisfy the general duty requirements of section 112(r)(1) of the Act:
 - a. Identify hazards which may result from accidental releases using appropriate hazard assessment techniques.
 - b. Design, maintain, and operate a safe facility.
 - c. Minimize the consequences of accidental releases if they occur.
2. An owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process, as determined under 40 CFR § 68.115, shall comply with the requirements of the Chemical Accident Prevention Provisions at 40 CFR Part 68 no later than the latest of the following dates:
 - a. June 21, 1999;
 - b. Three years after the date on which a regulated substance is first listed under 40 CFR § 68.130; or
 - c. The date on which a regulated substance is first present above a threshold quantity in a process [See 40 CFR § 68.10].

III.H. Permit Shield [40 CFR § 71.6(f)(1)(i)]

1. Compliance with the conditions of the title V permit shall be deemed compliance with the requirements of 40 CFR Part 60, Subpart Y, Standards of Performance for Coal Preparation Plants, as of the date of permit issuance.
2. Compliance with the conditions of the title V permit shall be deemed compliance with the requirements of 40 CFR Part 60, Subpart Kb, Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced after July 23, 1984, as of the date of permit issuance.

IV. Title V Administrative Requirements

IV.A. Fee Payment NNOPR Subpart VI [40 CFR § 71.6(a)(7) and § 71.9]

1. The permittee shall pay an annual permit fee in accordance with the procedures outlined below [NNOPR Subpart VI § 603(A) and (B)].
 - a. The permittee shall pay the annual permit fee by April 1 of each year.
 - b. The fee payment shall be in United States currency and shall be paid by money order, bank draft, certified check, corporate check, or electronic funds transfer payable to the order of the Navajo Nation EPA Air Quality Control Program.
 - c. The permittee shall send the fee payment and a completed fee filing form to:

Navajo Nation Air Quality Control Program
Operating Permit Program
P.O. Box 529
Fort Defiance, AZ 86504
2. The permittee shall submit a fee calculation worksheet form with the annual permit fee by April 1 of each year. Calculations of actual or estimated emissions and calculation of the fees owed shall be computed on the fee calculation worksheets provided by the EPA. Fee payment of the full amount must accompany each fee calculation worksheet. [40 CFR § 71.6(a)(7) and § 71.9(e)(1)] [NNOPR Subpart VI § 603(A)]
3. The fee calculation worksheet shall be certified by a responsible official consistent with 40 CFR § 71.5(d). [40 CFR § 71.6(a)(7) and § 71.9(e)(3)]
4. Basis for calculating annual fee:

The annual emissions fee shall be calculated by multiplying the total tons of actual emissions of all “fee pollutants” emitted from the source by the applicable emissions fee (in dollars/ton) in effect at the time of calculation. Emissions of any regulated air pollutant that already are included in the fee calculation under a category of regulated pollutant, such as a federally listed hazardous air pollutant that is already accounted for as a VOC or as PM₁₀, shall be counted only once in determining the source’s actual emissions. [NNOPR Subpart VI §§ 602(A) and (B)(1)]

- a. “Actual emissions” means the actual rate of emissions in tpy of any fee pollutant emitted from a part 71 source over the preceding calendar year. Actual emissions shall not include emissions of any one fee pollutant in excess of 4,000 TPY, or any emissions that come from insignificant activities [See NNOPR Subpart VI, and Subpart I § 102.5].

- b. Actual emissions shall be computed using methods required by the permit for determining compliance, such as monitoring or source testing data [40 CFR § 71.6(a)(7) and § 71.9(e)(2)].
 - c. If actual emissions cannot be determined using the compliance methods in the permit, the permittee shall use other federally recognized procedures [40 CFR § 71.6(a)(7) and 71.9(e)(2)].
 - d. The term “fee pollutant” is defined in NNOPR Subpart I § 102(24).
 - e. The term “regulated air pollutant” is defined in NNOPR Subpart I § 102.50, except that for purposes of this permit the term does not include any pollutant that is regulated solely pursuant to 4 N.N.C. § 1121 nor does it include any hazardous air pollutant designated by the Director pursuant to 4 N.N.C. § 1126(B).
 - f. The permittee should note that the applicable fee is revised each year to account for inflation, and it is available from NNEPA starting on March 1 of each year.
 - g. The total annual fee due shall be the greater of the applicable minimum fee and the sum of subtotal annual fees for all fee pollutants emitted from the source. [NNOPR Subpart VI § 602(B)(2)]
5. The permittee shall retain, in accordance with the provisions of 40 CFR § 71.6(a)(3)(ii), all fee calculation worksheets and other emissions-related data used to determine fee payment for 5 years following submittal of fee payment. Emission-related data include, for example, emissions-related forms provided by NNEPA and used by the permittee for fee calculation purposes, emissions-related spreadsheets, and records of emissions monitoring data and related support information required to be kept in accordance with 40 CFR § 71.6(a)(3)(ii) [40 CFR § 71.6(a)(7) and § 71.9(i)].
 6. Failure of the permittee to pay fees in a timely manner shall subject the permittee to assessment of penalties and interest in accordance with NNOPR Subpart VI § 603(C).
 7. When notified by NNEPA of underpayment of fees, the Permittee shall remit full payment within 30 days of receipt of notification [40 CFR § 71.9(j)(2)].
 8. A Permittee who thinks an NNEPA-assessed fee is in error and wishes to challenge such fee, shall provide a written explanation of the alleged error to NNEPA along with full payment of the NNEPA-assessed fee [40 CFR § 71.9(j)(3)].

IV.B. Blanket Compliance Statement [40 CFR §§ 71.6(a)(6)(i) and (ii), and Sections 113(a) and 113(e)(1) of the Clean Air Act, and 40 CFR § 51.212, § 52.12, § 52.33, § 60.11(g), and § 61.12]

1. The permittee must comply with all conditions of this Part 71 permit. Any permit noncompliance, including, but not limited to, violation of any applicable requirement; any permit term or condition; any fee or filing requirement; any duty to allow or carry out inspection, entry, or monitoring activities; or any regulation or order issued by the permitting authority pursuant to this part constitutes a violation of the Clean Air Act and is grounds for enforcement action; permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit [40 CFR §§ 71.6(a)(6)(i) and (ii)].
2. Determinations of deviations, continuous or intermittent compliance status, or violations of this permit, are not limited to the applicable testing or monitoring methods required by the underlying regulations or this permit; other credible evidence (including any evidence admissible under the Federal Rules of Evidence) must be considered in such determinations. [Section 113(a) and 113(e)(1) of the Clean Air Act, 40 CFR § 51.212, § 52.12, § 52.33, § 60.11(g), and § 61.12]

IV.C. Compliance Certifications [40 CFR § 71.6(c)(5)] [NNOPR § 302(I)]

1. The permittee shall submit to NNEPA and U.S. EPA Region 9 a certification of compliance with permit terms and conditions, including emission limitations, standards, or work practices, postmarked by January 30 of each year and covering the previous calendar year, except that the first reporting period shall cover the period from December 26, 2007 through July 30, 2008 and shall be postmarked by August 30, 2008 and the second reporting period shall cover the period from August 1, 2008 through December 31, 2008 and shall be postmarked by January 30, 2009. The compliance certification shall be certified as to truth, accuracy, and completeness by the permit-designated responsible official consistent with Section IV.E. of this permit and 40 CFR § 71.5(d) [40 CFR § 71.6(c)(5)].
2. The permittee shall submit to NNEPA a certification of compliance with permit terms and conditions, including emission limitations, standards, or work practices, postmarked by July 30 and covering the previous six (6) months, except that the first reporting period shall cover the effective date of this Part 71 permit through December 31, 2008. The compliance certification shall be certified as to truth, accuracy, and completeness by the permit-designated responsible official consistent with Section IV.E. of this permit. This condition is enforceable by NNEPA only [NNOPR § 302(I)].
3. The certification shall include the following:
 - a. Identification of each permit term or condition that is the basis of the certification.

- b. Identification of the method(s) or other means used for determining the compliance status of each term and condition during the certification period.

If necessary, the owner or operator also shall identify any other material information that must be included in the certification to comply with Section 113(c)(2) of the Clean Air Act, which prohibits knowingly making a false certification or omitting material information.

- c. The compliance status of each term and condition of the permit for the period covered by the certification based on the method or means designated above. The certification shall identify each deviation and take it into account in the compliance certification.
- d. Whether compliance with each permit term was continuous or intermittent.

IV.D. Duty to Provide and Supplement Information [40 CFR § 71.6(a)(6)(v), 40 CFR § 71.5(b)] [NNOPR § 301(E)]

The permittee shall furnish to NNEPA and U.S. EPA Region 9, within a reasonable time, any information that NNEPA and U.S. EPA Region 9 may request in writing to determine whether cause exists for modifying, revoking, and reissuing, or terminating the permit, or to determine compliance with the permit. Upon request, the permittee shall also furnish to NNEPA and U.S. EPA Region 9 copies of records that are required to be kept pursuant to the terms of the permit, including information claimed to be confidential. Information claimed to be confidential should be accompanied by a claim of confidentiality according to the provisions of 40 CFR § 2, Subpart B. The permittee, upon becoming aware that any relevant facts were omitted or incorrect information was submitted in the permit application, shall promptly submit such supplementary facts or corrected information. The permittee shall also provide additional information as necessary to address any requirements that become applicable to the facility after this permit is issued.

IV.E. Submissions NNOPR Subpart VI Sections 702 and 703 [40 CFR § 71.5(d), § 71.6, and § 71.9]

Any document required to be submitted with this permit shall be certified by a responsible official as to truth, accuracy, and completeness. Such certifications shall state that based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete. All documents required to be submitted, including reports, test data, monitoring data, notifications, compliance certifications, fee calculation worksheets, and applications for renewals and permit modifications shall be submitted to NNEPA and U.S. EPA Region 9:

Navajo Nation Air Quality Control Program
Operating Permit Program
P.O. Box 529
Fort Defiance, AZ 86504
and

Director, Air Division (Attn: AIR-1)
EPA Region IX
75 Hawthorne Street
San Francisco, CA 94105

IV.F. Severability Clause [40 CFR § 71.6(a)(5)]

The provisions of this permit are severable, and in the event of any challenge to any portion of this permit, or if any portion is held invalid, the remaining permit conditions shall remain valid and in force.

IV.G. Permit Actions [40 CFR § 71.6(a)(6)(iii)] [NNOPR § 406]

This permit may be modified, revoked, reopened, and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.

IV.H Administrative Permit Amendments [40 CFR § 71.7(d)] [NNOPR § 405(C)]

The permittee may request the use of administrative permit amendment procedures for a permit revision that:

1. Corrects typographical errors.
2. Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the source.
3. Requires more frequent monitoring or reporting by the permittee.
4. Allows for a change in ownership or operational control of a source where the NNEPA determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the NNEPA. permittee
5. Incorporates into the Part 71 permit the requirements from preconstruction review permits authorized under an EPA-approved program, provided that such a program meets procedural requirements substantially equivalent to the requirements of 40 CFR § 71.7 and § 71.8 that would be applicable to the change if it were subject to review as a permit modification, and compliance requirements substantially equivalent to those contained in 40 CFR § 71.6.
6. Incorporates any other type of change which NNEPA has determined to be similar to those listed above in subparagraphs (1) through (5).

IV.I. Minor Permit Modifications [40 CFR § 71.7(e)(1)] [NNOPR § 405(D)]

1. The permittee may request the use of minor permit modification procedures only for those modifications that:

- a. Do not violate any applicable requirement.
 - b. Do not involve significant changes to existing monitoring, reporting, or recordkeeping requirements in the permit.
 - c. Do not require or change a case-by-case determination of an emissions limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis.
 - d. Do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject. Such terms and conditions include:
 - i. A federally enforceable emissions cap assumed to avoid classification as a modification under any provision of Title I; and
 - ii. An alternative emissions limit approved pursuant to regulations promulgated under Section 112(i)(5) of the Clean Air Act.
 - e. Are not modifications under any provision of Title I of the Clean Air Act.
 - f. Are not required to be processed as a significant modification.
2. Notwithstanding the list of changes eligible for minor permit modification procedures in paragraph (1) above, minor permit modification procedures may be used for permit modifications involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that such minor permit modification procedures are explicitly provided for in an applicable implementation plan or in applicable requirements promulgated by EPA.
3. An application requesting the use of minor permit modification procedures shall meet the requirements of 40 CFR § 71.5(c) and shall include the following:
- (i) A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;
 - (ii) The source's suggested draft permit;
 - (iii) Certification by a responsible official, consistent with 40 CFR § 71.5(d), that the proposed modification meets the criteria for use of minor permit modification procedures and a request that such procedures be used; and
 - (iv) Completed forms for the permitting authority to use to notify affected States as required under 40 CFR § 71.8.

4. The source permitteemay make the change proposed in its minor permit modification application immediately after it files such application. After the source permitteemakes the change allowed by the preceding sentence, and until the permitting authority takes any of the actions authorized by 40 CFR §§ 71.7(e)(1)(iv)(A) through (C), the source permitteemust comply with both the applicable requirements governing the change and the proposed permit terms and conditions. During this time period, the source permitteeneed not comply with the existing permit terms and conditions it seeks to modify. However, if the source permitteefails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to modify may be enforced against it.
5. The permit shield under 40 CFR § 71.6(f) may not extend to minor permit modifications [See 40 CFR § 71.7(e)(1)(vi)].

IV.J. Group Processing of Minor Permit Modifications [40 CFR § 71.7(e)(2)]

1. Group processing of modifications by EPA may be used only for those permit modifications:
 - a. That meet the criteria for minor permit modification procedures under paragraphs IV.I.1 of this permit; and
 - b. That collectively are below the threshold level of 10 percent of the emissions allowed by the permit for the emissions unit for which the change is requested, 20 percent of the applicable definition of major source in 40 CFR § 71.2, or 5 tons per year, whichever is least.
2. An application requesting the use of group processing procedures shall be submitted to EPA, shall meet the requirements of 40 CFR § 71.5(c), and shall include the following:
 - a. A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs.
 - b. The source's suggested draft permit.
 - c. Certification by a responsible official, consistent with 40 CFR § 71.5(d), that the proposed modification meets the criteria for use of group processing procedures and a request that such procedures be used.
 - d. A list of the source's other pending applications awaiting group processing, and a determination of whether the requested modification, aggregated with these other applications, equals or exceeds the threshold set under Condition IV.(J)(1)(b) above.
 - e. Completed forms for the permitting authority to use to notify affected States as required under 40 CFR § 71.8.

3. The source may make the change proposed in its minor permit modification application immediately after it files such application. After the source makes the change allowed by the preceding sentence, and until the permitting authority takes any of the actions authorized by 40 CFR § 71.7(e)(1)(iv)(A) through (C), the source must comply with both the applicable requirements governing the change and the proposed permit terms and conditions. During this time period, the source need not comply with the existing permit terms and conditions it seeks to modify. However, if the source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to modify may be enforced against it.
4. The permit shield under 40 CFR § 71.6(f) may not extend to group processing of minor permit modifications [See 40 CFR § 71.7(e)(1)(vi)].

IV.K. Significant Permit Modifications [40 CFR § 71.7(e)(3)] [NNOPR § 405(E)]

1. The permittee must request the use of significant permit modification procedures for those modifications that:
 - a. Do not qualify as minor permit modifications or as administrative amendments.
 - b. Are significant changes in existing monitoring permit terms or conditions.
 - c. Are relaxations of reporting or recordkeeping permit terms or conditions.
2. Nothing herein shall be construed to preclude the permittee from making changes consistent with Part 71 that would render existing permit compliance terms and conditions irrelevant.
3. permittee must meet all requirements of Part 71 for applications for significant permit modifications. For the application to be determined complete, the permittee must supply all information that is required by 40 CFR § 71.5(c) for permit issuance and renewal, but only that information that is related to the proposed change [See 40 CFR §§ 71.7(e)(3)(ii) and 40 CFR § 71.5(a)(2)].

IV.L. Reopening for Cause [40 CFR § 71.7(f)] [NNOPR § 406]

NNEPA shall reopen and revise the permit prior to expiration under any of the following circumstances:

1. Additional applicable requirements under the Act become applicable to a major Part 71 source with a remaining permit term of 3 or more years.
2. Additional requirements (including excess emissions requirements) become applicable to an affected source under the acid rain program. Upon approval by the Administrator, excess emissions offset plans shall be deemed to be incorporated into the permit.

3. NNEPA determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit.
4. NNEPA determines that the permit must be revised or revoked to assure compliance with the applicable requirements.

IV.M. Property Rights [40 CFR § 71.6(a)(6)(iv)]

This permit does not convey any property rights of any sort, or any exclusive privilege.

IV.N. Inspection and Entry [40 CFR § 71.6(c)(2)]

Upon presentation of credentials and other documents as may be required by law, the permittee shall allow authorized representatives from NNEPA and U.S. EPA to perform the following:

1. Enter upon the permittee's premises where a Part 71 source is located or emissions-related activity is conducted, or where records must be kept under the conditions of the permit;
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;
3. Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and
4. As authorized by the Clean Air Act, sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.

IV.O. Emergency Provisions [40 CFR § 71.6(g)]

1. In addition to any emergency or upset provision contained in any applicable requirement, the permittee may seek to establish that noncompliance with a technology-based emission limitation under this permit was due to an emergency. To do so, the permittee shall demonstrate the affirmative defense of emergency through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - a. an emergency occurred and that the permittee can identify the cause(s) of the emergency;
 - b. the permitted facility was at the time being properly operated;
 - c. during the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emissions standards, or other requirements in this permit; and
 - d. the permittee submitted notice of the emergency to EPA within 2 working

days of the time when emissions limitations were exceeded due to the emergency. This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken. This notice fulfills the requirements of Condition III.C(2) of this permit.

- e. In any enforcement preceding the permittee attempting to establish the occurrence of an emergency has the burden of proof.
- 2. An "emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emissions limitation under the permit due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error.

IV.P. Transfer of Ownership or Operation [40 CFR § 71.7(d)(1)(iv)]

A change in ownership or operational control of this facility may be treated as an administrative permit amendment if the NNEPA determines no other change in this permit is necessary and provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to NNEPA.

IV.Q. Off Permit Changes [40 CFR § 71.6(a)(12)] [NNOPR § 404(B)]

The permittee is allowed to make certain changes without a permit revision, provided that the following requirements are met:

- 1. Each change is not addressed or prohibited by this permit;
- 2. Each change must comply with all applicable requirements and may not violate any existing permit term or condition;
- 3. Changes under this provision may not include changes or activities subject to any requirement under Title IV or that are modifications under any provision of Title I of the Clean Air Act;
- 4. The permittee must provide contemporaneous written notice to NNEPA and U.S. EPA Region 9 of each change, except for changes that qualify as insignificant activities under 40 CFR § 71.5(c)(11). The written notice must describe each change, the date of the change, any change in emissions, pollutants emitted and any applicable requirements that would apply as a result of the change;
- 5. The permit shield does not apply to changes made under this provision; and
- 6. The permittee must keep a record describing all changes that result in emissions of any regulated air pollutant subject to any applicable requirement not otherwise regulated under this permit, and the emissions resulting from those changes.

IV.R. Permit Expiration and Renewal [40 CFR Sections 71.5(a)(1)(iii), 71.6(a)(11), 71.7(b), 71.7(c)(1)(i) and (ii), and 71.8(d)]

1. This permit shall expire upon the earlier occurrence of the following events:
 - a. up to twelve (12) years elapses from the date of issuance to a solid waste incineration unit combusting municipal waste subject to standards under section 129 of the Clean Air Act; or
 - b. for sources other than those identified in subparagraph IV.R(1)(a) above, five (5) years elapses from the date of issuance; or
 - c. the source is issued a Part 70 permit by an EPA-approved permitting authority.
2. Expiration of this permit terminates the permittee's right to operate unless a timely and complete permit renewal application has been submitted on or before a date 6 months, but not more than 18 months, prior to the date of expiration of this permit.
3. If the permittee submits a timely and complete permit application for renewal is consistent with 40 CFR § 71.5(a)(2), but the permitting authority has failed to issue or deny the renewal permit, then the permit shall not expire until the renewal permit has been issued or denied and any permit shield granted pursuant to 40 CFR § 71.6(f) may extend beyond the original permit term until renewal.
4. The permittee's failure to have a Part 71 permit is not a violation of this part until NNEPA takes final action on the permit renewal application. This protection shall cease to apply if, subsequent to the completeness determination, the permittee fails to submit any additional information identified as being needed to process the application by the deadline specified in writing by NNEPA.
5. Renewal of this permit is subject to the same procedural requirements that apply to initial permit issuance, including those for public participation, affected State, and tribal review.
6. The application for renewal shall include the current permit number, description of permit revisions and off-permit changes that occurred during the permit term, any applicable requirements that were promulgated and not incorporated into the permit during the permit term, and other information required by the application form.